

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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NATHEL & NATHEL, INC.,

Plaintiff,

-against-

ORDER ADOPTING REPORT AND  
RECOMMENDATION  
08-CV-4880 (JS)(WDW)

CARLOS PRODUCE, CARLOS BONILLA,  
individually and in any corporate  
or partnership capacity.,

Defendants.

-----X  
APPEARANCES:

For Plaintiff: Timothy J. Fierst, Esq.  
Crowell & Moring LLP  
590 Madison Avenue, 20th Floor  
New York, NY 10022

For Defendants: No Appearance

SEYBERT, District Judge:

On December 4, 2008, Nathel & Nathel, Inc. ("Plaintiff") filed a Complaint against Carlos Produce and Carlos Bonilla, individually and in any corporate or partnership capacity, alleging a failure to produce a Perishable Agricultural Commodities Act trust, dissipation of trust assets, failure to pay trust funds, breach of fiduciary duty, and breach of contract. On July 21, 2009, this Court entered a default judgment against Defendants and referred this matter to Magistrate Judge William D. Wall to report and recommend as to the amount of damages, if any, to be awarded to Plaintiff.

On September 17, 2009, Judge Wall issued a Report and Recommendation ("R&R") recommending that Plaintiff be awarded \$29,867.50 in damages, \$2,966.86 in prejudgment interest, and

\$5,091.91 in attorneys' fees.

Pursuant to Rule 72 of the Federal Rule of Civil Procedure, any objections to the R&R were to be filed with the Clerk of the Court within ten days of service of the R&R. The time for filing objections has expired and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

The Court ADOPTS the R&R in its entirety. The Court hereby GRANTS Plaintiff's motion for a default judgment (Docket Entry No. 12) and GRANTS Plaintiff an award of \$29,867.50 in damages, \$2,966.86 in prejudgment interest, and \$5,091.91 in attorneys' fees. The Clerk of the Court is directed to terminate Docket Entry No. 7 as moot and mark this matter CLOSED.

SO ORDERED

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York  
October 9, 2009